

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

In the Matter of	)	
	)	
Acceleration of Broadband Deployment	)	WC Docket No. 11-59
Expanding the Reach and Reducing the Cost of	)	
Broadband Deployment by Improving Policies	)	
Regarding Public Rights of Way and Wireless	)	
Facilities Siting	)	
	)	

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**REPLY COMMENTS OF THE DISTRICT OF COLUMBIA**

These Reply Comments are filed by the District of Columbia in response to the Notice of Inquiry ("NOI"), released April 7, 2011, in the above-entitled proceeding.

**INTRODUCTION**

The District of Columbia (the "District") is a major metropolitan area with wide broadband penetration. The broadband providers in the District of Columbia include Verizon Communications, Inc.; Comcast Corporation; Starpower Communications, LLC (d/b/a RCN); T-Mobile USA; Clearwire Corporation; Cbeyond Communications, Inc.; AT&T, Inc.; Leap Wireless International, Inc.; Sprint/Nextel Corporation; Covad Communications Group, Inc.; Atlantech Online, Inc.; XO Holdings, Inc.; PaeTech Corporation; Nations Line, Inc.; Cavalier Telephone, LLC; and Leap Wireless International. According to studies released by the National Telecommunications and Information Administration Report (NTIA), in 2009, 66% of homes in the District of Columbia had access to the Internet and the District ranked 22<sup>nd</sup> in the US for number of homes with broadband access.<sup>1</sup> In 2010, the number of households using broadband in the home increased to 71.7%.<sup>2</sup> Citizens of the District also have access to free public municipal Wi-Fi throughout the city.<sup>3</sup> The District of Columbia has made great strides and is at the forefront of broadband deployment and access.

This Reply provides a response to the Comments of submitted by Next G Networks, Inc. ("Next G") concerning the permitting and siting process in the District of Columbia. Next G suggests that the District of Columbia's regulatory processes are delaying broadband deployment in the District of Columbia. The District respectfully disagrees with the following explanation.

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<sup>1</sup> NTIA Report: [http://www.ntia.doc.gov/files/ntia/publications/esa\\_ntia\\_us\\_broadband\\_adoption\\_report\\_11082010\\_1.pdf](http://www.ntia.doc.gov/files/ntia/publications/esa_ntia_us_broadband_adoption_report_11082010_1.pdf)

<sup>2</sup> National Broadband Plan: <http://broadband.gov/download-plan/>

<sup>3</sup> DC Wi-Fi Hotspot Map: <http://dcatlas.dcgis.dc.gov/agencyapps/wifi.aspx>

## RESPONSE TO COMMENTS OF NEXT G NETWORKS, INC.

The District of Columbia (the "District") provides the following in response to the Comments submitted by Next G Networks, Inc. ("Next G") concerning its permitting process.

### Permitting Process

Next G claims that it encountered processes in the District that "are *not* defined with sufficient clarity and that do *not* provide for a timely review and approval of permits."<sup>4</sup> Next G then goes on to detail its perception of the permitting process in the District of Columbia. First, Next G states, "Node installations in the public ways of the District of Columbia are subject to a host of competing jurisdictions."<sup>5</sup> This is inaccurate.

The District of Columbia District Department of Transportation (DDOT) is responsible for regulating the construction, operation and maintenance of facilities within the District's public space for the benefit of its citizens. The right of way (ROW) policies and procedures are intended to establish a fair and efficient manner to complete the acquisitions or transfers of property, consistent with federal and local regulations. Moreover, DDOT's permitting process for utility infrastructure is clear, simple, and well-coordinated. DDOT has an online permitting process which allows for uploading documents and electronic submission. The system allows for tracking the progress of the application throughout the permitting process, which is of great help to applicants. DDOT also holds monthly coordination meetings with all utilities, giving them the opportunity to discuss both individual site issues as well as broader relational and policy concerns. Thus, the District contends that its permitting process is fair and timely.

### Jurisdiction

Next G describes the entities perceived to have "jurisdiction" over the public-right-of-way and states that its interests are largely "aesthetically oriented."<sup>6</sup> The entities that Next-G mentioned in their submission are not part of the District government or the DDOT Permit review process. However, the characterization that the government (federal and local) takes into account aesthetics in the public space and siting process is correct. The unique and historical nature of the District of Columbia necessitates extra care in the preservation of the nation's history and resources. There must be a balance between the deployment of new technology and the preservation of history. Thus, many of the processes respecting the disposition and use of land in the District reflect a general need for preserving the existing landscape and structure. The organizations mentioned by Next G have an interest in the placing of telecommunications infrastructure, the actual jurisdiction lies with the District government and is executed through the DDOT permitting process. The District must undertake the management of this national

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<sup>4</sup> See Comments of Next G Networks, Inc., p. 5.

<sup>5</sup> See Comments of Next G Networks, Inc., p. 8.

<sup>6</sup> *Id.*

resource in a responsible manner to ensure that it is not damaged by those acting in their own business self-interest.<sup>7</sup>

## **DAS Network Deployment**

Next G states “although carriers have expressed interest in improving their capacity within the District for years because of significant network demands ... has made carriers unwilling to commit to the deployment of a DAS network within the District.” The District of Columbia has at least sixteen broadband providers in the city. Providers have committed to expanding their capacity evidenced also by three cable television providers in the city that provide residential broadband, strong municipal Wi-Fi accessibility, and numerous mobile broadband providers.

With that said, Next G’s general frustration in the District of Columbia likely has to do with something not seen often in the District – antennas in public space. Next G apparently prefers to install their antennas on city-owned streetlights. They have tried this in many other cities and have been met with opposition. Also, if Next G seeks to use government assets for a commercial purpose, they should expect to compensate the city for use of those assets through fees. As stated earlier, external reviews by entities such as the DC State Historic Preservation Office are not a problem in the District. There has recently been one such application in the District recently that was reviewed by the Commission of Fine Arts and it was timely approved by DDOT.

Admittedly, the most complicated and time consuming aspects of antenna-on-streetlight applications are as follows: (1) the technical review of how the antenna will affect the District-owned streetlight; and (2) the development of a legal agreement that speaks to right of access, maintenance, and liability issues. Applicants may avoid these delays by placing antennas on private property. If the installation must be in the public space and on a city-owned streetlight, closed coordination with DDOT (e.g. sharing plans and making prototypes available for inspection) will assist in speeding up the technical review and development of a legal agreement. As the District and other jurisdictions develop experience in evaluating antenna proposals, the review time should be reduced.

## **CONCLUSION**

The District of Columbia would like to thank the Commission for its efforts to better understand the practices and policies surrounding local governments’ management of the public rights of way. We strongly urge the Commission to consider our reply comments, as well as those submitted by communities across the country, before taking any action that may adversely affect local governments’ rights of way authority. The Commission must resist moving forward in any other contexts to act on any of the issues raised in the NOI until the record in this proceeding is complete.

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<sup>7</sup> Next G, with FCC permission, but no local permit, erected a tower structure in a citizen’s yard. In this District of Columbia, such action could have national security implications and result is the waste of government resources in removing the structure. <http://northshoresun.timesreview.com/2011/02/5977/town-asking-wireless-company-to-take-down-tower-built-on-mount-sinai-familys-property/>

Respectfully submitted,


The District of Columbia

ERIC E. RICHARDSON  
Director  
D.C. Office of Cable Television  
3007 Tilden Street, NW, Pod P  
Washington, DC 20008  
(202) 671-0066

IRVIN B. NATHAN  
Attorney General for the District of Columbia

DAVID FISHER  
Assistant Deputy Attorney General,  
Commercial Division

By:

  
NIQUELLE M. ALLEN  
Assistant Attorney General  
DC Bar # 471480  
3007 Tilden Street, NW, Pod P  
Washington, DC 20008  
(202) 671-0075  
(202) 332-7020 – fax  
E-mail: niquelle.allen@dc.gov

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